

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE BOEING COMPANY,

Plaintiff,

v.

AGRICULTURAL INSURANCE COMPANY,
et al.,

Defendants.

CASE NO. C05-921C

ORDER

This matter comes before the Court on a number of motions related to the arbitrability of this dispute:

- Defendant Federal Insurance Company's ("Federal") motion to dismiss the complaint, stay the action, and compel arbitration (Dkt. No. 19);
- TIG Insurance Company's ("TIG") motion to dismiss and compel arbitration (Dkt. No. 31);
- Defendant Agricultural Insurance Company's ("AIG") motion for partial summary judgment (Dkt. No. 44);
- Defendant Federal's motion to dismiss or stay the cross-claims of AIG and Gulf Insurance Company ("Gulf") (Dkt. No. 56); and
- Defendant TIG's motion to dismiss AIG's and Gulf's cross-claims (Dkt. No. 58).

1 Because each of these motions ultimately concerns whether and to what extent this dispute will be
2 adjudicated in this Court or in arbitration, and are in many ways contingent on each other, the Court
3 disposes of these motions together in this Order. The Court has considered the papers submitted by the
4 parties and determined that oral argument is not necessary. The Court hereby finds, rules, and orders as
5 follows.

6 **I. Introduction and Summary.**

7 This dispute arises from a series of employment-discrimination cases in which Boeing became
8 embroiled from 1998 to 2000. It reported those cases to its primary insurer, Federal, in each of the years
9 in which the cases were instituted. Federal and a number of excess carriers now find themselves in a
10 coverage dispute with Boeing regarding who is to pay and in what amounts as a result of losses incurred
11 by Boeing during those discrimination cases.¹ Focusing on an arbitration clause in Boeing's primary
12 policy with Federal, which each of the excess policies incorporates by reference, the parties dispute the
13 extent to which this controversy should be settled in this Court or in private arbitration.

14 In the aggregate, the above-noted motions present the Court with the following question: does
15 Washington law preclude parties who have expressly agreed to arbitrate insurance-coverage disputes
16 from availing themselves of that agreement? Because nothing in Washington law precludes the Court
17 from giving force to such an express agreement, the Court GRANTS Defendant Federal's motion to
18 STAY Boeing's claims and ORDERS the parties to engage in arbitration under the terms of Federal's
19 policy. Defendant TIG's substantively similar motion to dismiss is DENIED as moot. For the same
20 reasons, the Court GRANTS Federal's motion to STAY the cross-claims of AIG and Gulf. TIG's
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23 ¹ Although Boeing also referenced in its complaint events that may implicate policies with Federal
24 dating back to 1996, the Court does not address those events or policies in this Order. In its opposition
25 to Federal's current motion, Boeing disclaimed any intent to pursue in this litigation claims relating to
those earlier policies.

1 substantively similar motion is DENIED as moot. Finally, AIG's motion for partial summary judgment is
2 DENIED.

3 **II. Motions to Dismiss or Stay Boeing's Claims and Compel Arbitration.**

4 Defendants Federal and TIG move for dismissal of Boeing's complaint or for a stay of
5 proceedings on the basis of an agreement in Boeing's insurance policy with Federal requiring the parties
6 to submit coverage questions to arbitration. Boeing responds that, plain language of the agreement
7 notwithstanding, Washington Revised Code section 48.18.200 precludes the Court from enforcing
8 clauses that require arbitration of insurance-coverage disputes.

9 As with all contractual disputes, the Court begins by analyzing the language of the agreement
10 itself. In this case, the language of the policy could not be clearer: "If [Federal] and [Boeing] do not
11 agree upon *coverage* provided under this [policy], then either party may make a written demand for
12 arbitration." (Johnson Decl., Ex. A at 12 (emphasis added).) Both Federal and Boeing, moreover, agree
13 that the present dispute is over coverage: "This case is a substantive dispute over the scope of coverage
14 available to Boeing, and not a mere dispute over the valuation of Boeing's loss." (Boeing's Opp'n, at
15 7:31-33; *see also* Federal's Mot. at 1 ("Each and every claim asserted in Boeing's Complaint relates to
16 the coverage due under the Policy.").)

17 Notwithstanding what appears to be a clear expression of intent to arbitrate coverage disputes
18 with its insurer, Boeing argues that Washington law precludes the enforcement of agreements to arbitrate
19 coverage disputes.² However, because the policy at issue is an agreement to arbitrate and affects
20 interstate commerce, the Court must first turn to federal law.³ Specifically, the Federal Arbitration Act

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22 ² Because the Court sits in diversity jurisdiction, the substantive law of Washington applies. *See*
Snead v. Metro. Prop. & Cas. Ins. Co., 237 F.3d 1080, 1090 (9th Cir. 2001).

23 ³ As noted in the complaint, Boeing is a Delaware corporation headquartered in Illinois, and
24 Federal is an Indiana corporation headquartered in New Jersey. Both parties transact business
25 nationwide, and indeed, worldwide. Neither party disputes that the insurance policy at issue in this case
affects interstate commerce. *See* 9 U.S.C. § 1 ("[C]ommerce, as herein defined, means commerce

requires that in the context of a contract affecting interstate commerce, “an agreement in writing to submit to arbitration an existing controversy arising out of such a contract . . . shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of the contract.” 9 U.S.C. § 2. The Act was passed to “ensure judicial enforcement of privately made agreements to arbitrate,” and requires courts to compel arbitration where arbitrable claims exist and a motion is made. *Dean Witter Reynolds, Inc. v. Byrd*, 470 U.S. 213, 219 (1985); *see also Walters v. A.A.A. Waterproofing, Inc.*, 85 P.3d 389, 391 (Wash. Ct. App. 2004). To this end, the Act requires a court, “upon being satisfied that the issue involved in [the case] is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the action until such arbitration” has concluded. 9 U.S.C. § 3. In addition to the power to stay an action pursuant to a valid arbitration agreement, the Court has the power to compel the parties to arbitrate: “[U]pon being satisfied that the making of of the agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement.” 9 U.S.C. § 4.

Despite the plain language of the arbitration clause in Federal’s policy and of the Federal Arbitration Act, Boeing argues that Washington law controls this dispute and prohibits the enforcement of agreements to arbitrate insurance-coverage disputes. Specifically, Boeing points to section 48.18.200(1), which states in relevant part:

No insurance contract delivered or issued for delivery in this state and covering subjects located, resident, or to be performed in this state, shall contain any condition, stipulation, or agreement . . . (b) depriving the courts of this state of the jurisdiction of action against the insurer

WASH. REV. CODE § 48.18.200. Tying this statute back to the Federal Arbitration Act, Boeing argues that section 48.18.200 constitutes the “grounds as exist at law . . . for the revocation of the contract” under § 3 of the Act.

among the several states”).

1 The viability of Boeing's argument turns entirely on whether its agreement to arbitrate coverage
2 disputes effectively "depriv[es] the courts of this state of the jurisdiction of action against the insurer."
3 Turning first to Washington's statutory scheme, Boeing is correct that Washington is among the states
4 that "explicitly make compulsory arbitration agreements in *uninsured motorist coverage* endorsements
5 unenforceable." 21 WILLISTON ON CONTRACTS § 57:168 (4th ed. 2004) (emphasis added). It is also true
6 that an ever-dwindling number of states expressly prohibit the enforcement of arbitration clauses in
7 insurance contracts generally. *See, e.g.*, ARK. CODE ANN. § 16-108-201(b)(2); GA. CODE ANN. § 9-9-
8 2(c)(3); KAN. STAT. ANN. § 5-401(c)(1); KY. REV. STAT. ANN. § 417.050(2); MO. REV. STAT. § 435.350;
9 S.D. CODIFIED LAWS § 21-25A-3; VT. STAT. ANN. tit. 12, § 5653. However, Washington is not among
10 those states. The same year that the Washington state legislature passed section 48.18.200, it passed a
11 law explicitly excluding employment contracts – but not insurance contracts – from those for which
12 arbitration clauses are enforceable. *See* WASH. REV. CODE § 7.04.010. This omission is telling. *See*
13 *Jacobsen v. Dep't of Labor & Indus.*, 110 P.3d 253, 257 (Wash. Ct. App. 2005) ("Where a statute
14 specifically designates the things or classes of things upon which it operates, an inference arises in law
15 that all things or classes of things omitted from it were intentionally omitted by the legislature under the
16 maxim *expressio unius est exclusio alterius* – specific inclusions exclude implication."). Thus, there is no
17 explicit statutory bar to the Court's enforcement of Boeing and Federal's arbitration agreement.

18 Nor is there anything in the Washington courts' interpretation and application of the state's
19 insurance law that impairs agreements to arbitrate insurance-coverage disputes. In fact, the Supreme
20 Court of Washington has consistently interpreted the state's policy as one of liberal deference to
21 arbitration agreements. *See Godfrey v. Hartford Cas. Ins. Co.*, 16 P.3d 617, 620 (Wash. 2001)
22 ("Encouraging parties voluntarily to submit their disputes to arbitration is an increasingly important
23 objective in our ever more litigious society.") (quoting *Boyd v. Davis*, 897 P.2d 1239, 1242 (Wash.
24 1995)); *Price v. Farmer's Ins. Co.*, 946 P.2d 388, 391 n.3 (Wash. 1997) (noting that "parties are free to
25 decide whether they wish to use arbitration in lieu of the judicial process").

1 Because no Washington court has specifically addressed section 48.18.200's effect on express
2 agreements to arbitrate coverage disputes, Boeing points to a series of Washington decisions in the
3 context of under- or uninsured motorist (UIM) insurance. Those cases, argues Boeing, establish
4 Washington's policy against enforcing agreements to arbitrate coverage disputes. *See, e.g., Price*, 946
5 P.2d at 392 (arbitrating coverage disputes is not "the usual practice" in Washington); *Hartford Accident*
6 *& Indem. Co. v. Novak*, 520 P.2d 1368, 1374 (Wash. 1974) ("The authorities are uniform that the
7 question of coverage is not an issue for arbitration . . ."); *Heaphy v. State Farm Mut. Auto. Ins. Co.*, 72
8 P.3d 220, 223 (Wash. Ct. App. 2003) ("[Q]uestions about coverage are not subject to arbitration.");
9 *Keesling v. W. Fire Ins. Co.*, 520 P.2d 622, 626 (Wash. Ct. App. 1974) (agreements to arbitrate
10 coverage disputes "will not be allowed to interfere with or bar the litigation of such controversies when
11 brought into court") (quoting *Randall v. Am. Fire Ins. Co.*, 25 P. 953, 957 (Mont. 1891)).

12 In fact, this line of precedent addressing UIM policies is not a prohibition on the arbitration of
13 coverage disputes but an interpretation of policies that generally contain no such provision. Thus, where
14 the parties have not expressly agreed to arbitrate coverage disputes – as is usually the case in UIM
15 policies – Washington courts will not force insureds to do so. *See, e.g., Heaphy*, 72 P.3d at 223 (insurer
16 had admitted coverage, so damages issues were arbitrable); *Detweiler v. J.C. Penney Cas. Ins. Co.*, 751
17 P.2d 282, 289 (Wash. Ct. App. 1988) (policy's terms gave defendant right to arbitrate liability and
18 damages issues but not coverage); *Cantwell v. Safeco Ins. Co.*, 678 P.2d 852, 854 (Wash. Ct. App. 1984)
19 (parties agreed that plaintiff was covered under policy; thus, "issues of liability and injuries and damages
20 are the issues to be arbitrated").⁴ And the Supreme Court of Washington has indicated, if not held, that
21 when parties expressly agree to arbitrate coverage issues, state law does not prohibit courts from
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23 ⁴ Boeing relies heavily on *Keesling*, 520 P.2d at 626, as prohibiting the enforcement of
24 agreements to arbitrate coverage disputes. But like the UIM cases above, the *Keesling* court was not
25 confronted with an express agreement to do so; rather, that case addressed the arbitrability of an appraisal
dispute under a fire-insurance policy. *See id.* at 625-26.

1 enforcing such an agreement. *See Godfrey*, 16 P.3d at 620 & n.3 (noting that “parties agreed by contract
2 to resolve their disputes over UIM coverage by arbitration”); *see id.* at 621 (“[T]he parties are free to
3 decide by contract . . . which issues are submitted to arbitration”); *Price*, 946 P.2d at 392 (observing
4 that “an arbitration clause *could* submit coverage questions to arbitration”) (emphasis added).

5 Lacking any specific support from Washington codes or courts, Boeing directs the Court to an
6 apparent split between the Louisiana courts and the First Circuit’s interpretation of Massachusetts law.
7 The insurance laws of both those states track the language of section 48.18.200 nearly identically. *See*
8 MASS. GEN. LAWS ch. 175, § 22; LA. REV. STAT. ANN. § 22:629. However, the Louisiana courts have
9 found that section 22:629(A)(2) bars the enforcement of any arbitration clause in an insurance contract.
10 *See Hobbs v. IGF Ins. Co.*, 834 So. 2d 1069, 1071 (La. Ct. App. 2003) (“It is clear, in Louisiana, [that]
11 arbitration clauses in contracts of insurance are prohibited as a matter of public policy”). In
12 contrast, the First Circuit interpreted a substantively identical Massachusetts law to allow the
13 enforcement of such agreements. *See DiMercurio v. Sphere Drake Ins., PLC*, 202 F.3d 71, 81 (1st Cir.
14 2000).

15 The Court’s decision today is guided primarily by the plain language of Washington’s statutory
16 scheme and the lack of any prohibition in Washington case law, but the Court also finds the First Circuit’s
17 reasoning in *DiMercurio* persuasive. As here, that court faced a state statute passed long before the
18 Federal Arbitration Act, when the judiciary’s view of arbitration was very different:

19 The prevailing attitude of the courts toward arbitration before the passage of the
20 FAA was one of disapproval, and this typically was couched as an objection to
21 being ousted of their jurisdiction [But t]he act was passed not to oust the
22 jurisdiction of the courts but to provide for maintaining their jurisdiction while at
the same time recognizing arbitration agreements as affirmative defenses and
providing a forum for their specific enforcement.

23 202 F.3d at 75-76. The Court agrees that the *DiMercurio* opinion “reflects the modern view that
24 arbitration agreements do not divest the courts of jurisdiction, though they prevent courts from resolving
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1 the merits of arbitrable disputes.” *Id.* at 77. Washington case law suggests that section 48.18.200 should
2 be interpreted similarly.⁵

3 Finally, because neither section 48.18.200 nor Washington case law interpreting and applying that
4 section (or Washington’s insurance statutes generally) bars the enforcement of express agreements to
5 arbitrate coverage disputes, the McCarran-Ferguson Act does not apply here. That act precludes the
6 application of any federal statute that “invalidate[s], impair[s], or supercede[s] any law enacted by any
7 State for the purpose of regulating the business of insurance.” 15 U.S.C. § 1012(b). But here, the
8 Federal Arbitration Act’s requirement that courts enforce express agreements to arbitrate does not
9 invalidate, impair, or supercede – and in fact, is entirely consistent with – Washington law allowing such
10 arbitrations to proceed. “[I]f a state insurance law does not prohibit arbitration, the mere fact that an
11 insurance policy is at issue, rather than some other type of contract, does not implicate the McCarran-
12 Ferguson Act or allow the parties to ignore the mandate of the Federal Arbitration Act.” 21 WILLISTON
13 ON CONTRACTS § 57:168 (4th ed. 2004).

14 For these reasons, Defendant Federal’s motion to STAY Boeing’s claims is GRANTED, and
15 Boeing and Federal are ORDERED to proceed with arbitration according to the terms of Federal’s
16 policy. TIG’s motion to dismiss or stay and compel arbitration is substantively identical to Federal’s and
17 thus is DENIED as moot.

18 **III. Federal’s and TIG’s Motions to Dismiss or Stay Excess Carriers’ Cross-Claims**

19 The balance of the motions on the docket address claims between Federal and various excess
20 carriers. First, Defendants AIG and Gulf request that the Court adjudicate their cross-claims against
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23 ⁵ The Court rejects Boeing’s additional argument that the arbitration agreement here constitutes a
24 *de facto* choice-of-law provision. The fact that the parties agreed to contract out of traditional common
25 law remedies such as attorneys fees does not require the contract “to be construed according to the laws
26 of any other state or country” in violation of section 48.18.200(1)(a).

1 Federal and TIG regardless of the disposition of Federal's motion to stay and compel arbitration.⁶
2 Federal and TIG have both responded with motions to dismiss or stay AIG's and Gulf's cross-claims. In
3 addressing these issues, the Court's primary concern is to avoid proceeding in a way that renders the
4 arbitration between Boeing and Federal "redundant and meaningless; in effect, thwarting the federal
5 policy in favor of arbitration." *Harvey v. Joyce*, 199 F.3d 790, 796 (5th Cir. 2000).

6 AIG's and Gulf's cross-claims are requests for declarations limiting their exposure in the event
7 Boeing's losses exceed the coverage provided by the primary carrier (Federal) and other excess carriers
8 whose duties to pay precede those of AIG and Gulf. As such, the Court may exercise its discretion to
9 issue such declarations under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201(a). *Wilton v.*
10 *Seven Falls Co.*, 515 U.S. 277, 282-83 (1995). "Even if the district court has subject matter jurisdiction
11 [under the Act], it is not required to exercise its authority to hear the case." *Huth v. Hartford Ins. Co.*,
12 298 F.3d 800, 802 (9th Cir. 2002).

13 Both AIG and Gulf argue that the Court should exercise its discretion to adjudicate their cross-
14 claims because they are not bound by the arbitration agreement between Boeing and Federal, and that
15 policy concerns favor proceeding in this Court while Boeing and Federal are in arbitration. As to their
16 first contention, it is true that Federal's arbitration agreement with Boeing is not, by itself, sufficient to
17 apply the mandatory stay under § 3 of the Federal Arbitration Act against AIG and Gulf. *See, e.g., IDS*
18 *Life Ins. Co. v. SunAmerica, Inc.*, 103 F.3d 524, 529 (7th Cir. 1997) (Posner, C.J.) (under § 3 of the Act,
19 "person sought to be stayed" must be party to the arbitration agreement). However, "district courts,
20 despite the inapplicability of the FAA, may stay a case pursuant to the power inherent in every court to
21 control the disposition of the causes on its docket with economy of time and effort for itself, for counsel,
22 and for litigants." *WorldCrisa Corp. v. Armstrong*, 129 F.3d 71, 76 (2nd Cir. 1997) (internal quotations

24 ⁶ AIG's request arrives in the form of a "Statement Regarding Motions to Dismiss" (Dkt. No. 35).
25 The Court treats this request as part and parcel of AIG's opposition papers to Federal and TIG's motions
26 to stay AIG's cross-claims.

1 omitted). The Ninth Circuit has stated that district courts should consider whether a stay would avoid
2 duplicative litigation; for example, “[i]f there are parallel state proceedings involving the same issues and
3 parties pending at the time the federal declaratory action is filed, there is a presumption that the entire suit
4 should be heard in state court.”⁷ *Gov’t Employees Ins. Co. v. Dizol*, 133 F.3d 1220, 1225 (9th Cir. 1998)
5 (en banc).

6 Against this backdrop, the critical question is whether there is any means of determining AIG’s
7 and Gulf’s potential exposure without deciding the core dispute between Federal and Boeing – and thus
8 risking duplicative or inconsistent rulings by this Court and the arbitrator. In other words, can the Court
9 declare that AIG and Gulf have no obligation to reimburse Boeing’s losses without ruling that the
10 underlying employment actions were either a single coverage event or three separate events? The excess
11 carriers themselves answer this question: “the nature and extent of Gulf’s exposure depends largely on
12 whether [the employment-discrimination cases] are considered one ‘integrated employment occurrence’
13 that is allocated to a single policy year.” (Gulf’s Opp’n at 16; *see also* AIG’s Opp’n at 4 (describing
14 hypothetical effect on its exposure if employment cases are deemed a single occurrence).)

15 Nonetheless, the parties have submitted voluminous pleadings, declarations, and exhibits
16 requesting that the Court determine (1) the number of occurrences; and (2) the probability that, given a
17 ruling on the number of occurrences, the excess carriers’ policies will be implicated. Any such finding
18 would result in the Court first compelling arbitration of a dispute, and then adjudicating that same dispute
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20 ⁷ There is some ambiguity in the case law as to whether district courts should rely on a stay
21 analysis or the doctrine of abstention in declining to hear a declaratory judgment claim. In *Dizol*, the
22 Ninth Circuit ruled that a district court in such a situation should be guided by the principles of parallel
23 proceeding abstention as set forth in *Brillhart v. Excess Insurance Co.*, 316 U.S. 491 (1942). The Court
24 does so here by analyzing the likelihood of duplicative or inconsistent rulings by this Court and the
25 arbitrator. Regardless, the Court’s discretionary power to stay the case in favor of arbitration is not
functionally different from abstention as in the case of a parallel state proceeding. *See Nederlandse Erts-
Tankersmaatschappij, N.V. v. Isbrandtsen Co.*, 339 F.2d 440, 441 (2nd Cir. 1964) (“[A] stay may also be
appropriate where the pending proceeding is an arbitration in which issues involved in the case may be
determined.”).

1 – all within a single order. The Court therefore finds that Federal has made the required showing of
 2 “hardship or inequity in being required to go forward” in this Court. *See Nederlandse*, 339 F.2d at 442.
 3 The same interests that are served by enforcing Boeing and Federal’s agreement to arbitrate are served by
 4 staying the claims of excess carriers while the amount of primary coverage is determined in arbitration.

5 The Court is cognizant of the fact that there is no procedure for compelling consolidation of the
 6 multiple issues and parties that should (ideally) be determined in a single arbitration.⁸ The Court is
 7 further aware that a final resolution of this dispute may ultimately require multiple arbitrations. However,
 8 both AIG and Gulf constructed their policies to “follow form” on Federal’s policy, so that each knew of
 9 and expressly incorporated the arbitration provision in Federal’s policy – including the absence of an
 10 agreement to consolidate related parties or disputes in arbitration. (*See* AIG’s Mot. for Partial Summ. J.,
 11 at 5:13-14 (“The [AIG] excess coverage . . . provides that the ‘coverages provided by this policy shall be
 12 the same as that provided by’ the Federal Policy.”). Thus, it cannot be the case that Federal’s move to
 13 compel an exclusive, two-party arbitration comes as a surprise to any of the excess carriers. The excess
 14 carriers will not be heard to complain of the effect (or lack thereof) of arbitration clauses they had every
 15 opportunity to modify or reject in their own policies with Boeing.

16 Therefore, the Court GRANTS Federal’s motion to STAY the cross-claims of AIG and Gulf.
 17 TIG’s substantively similar motion is DENIED as moot.

18 **IV. AIG’s Motion for Partial Summary Judgment**

19 Finally, AIG has moved for summary judgment on the core dispute between Federal and Boeing:
 20 whether the employment-discrimination actions that spawned this insurance dispute constituted a single
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22 ⁸ Because there is no evidence of an agreement between Federal and Boeing to consolidate related
 23 arbitrations, the Court cannot order the excess carriers and their issues consolidated with the Boeing-
 24 Federal arbitration. *See Weyerhaeuser Co. V. W. Seas Shipping Co.*, 743 F.2d 635, 636 (9th Cir. 1984)
 25 (declining to order consolidation in absence of contractual agreement; “we can only determine whether a
 written arbitration agreement exists, and if it does, enforce it ‘in accordance with its terms.’”) (quoting 9
 U.S.C. § 4).

1 coverage event (as Federal argues) or a number of separate coverage events (as Boeing and AIG argue).
2 As described above, this is precisely the coverage dispute that Federal's policy requires be arbitrated, and
3 accordingly, the precise dispute that the Court has ordered be arbitrated. For the reasons set forth in the
4 previous section, AIG's motion is DENIED.

5 **V. Conclusion.**

6 The Court takes the arbitration clause at issue as Boeing and Federal agreed to memorialize it –
7 and as the excess carriers agreed to incorporate it. Congress has declared a policy of enforcing
8 arbitration agreements as the parties have written them and nothing in Washington law compels a
9 different result. Accordingly, the Court GRANTS Defendant Federal's motion to STAY Boeing's claims
10 and ORDERS the parties to proceed to arbitration under the terms of Federal's policy. Defendant TIG's
11 substantively similar motion to dismiss is DENIED as moot. The Court further GRANTS Federal's
12 motion to STAY the cross-claims of AIG and Gulf. TIG's substantively similar motion is DENIED as
13 moot. Finally, AIG's motion for partial summary judgment is DENIED.

14 This case is STAYED in its entirety pending further order of the Court.

15 SO ORDERED this 19th day of September, 2005.

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18 UNITED STATES DISTRICT JUDGE
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